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U.S. DISTRICT COURT, E.D.N.Y.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

★ SEP 14 2006 ★

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BROOKLYN OFFICE

In re SUEANN M. SMITH,

Debtor.

JEFFREY H. SCHWARTZ,

Appellant,

-against-

ROBERT L. GELTZER,
Chapter 7 Trustee

Appellee.

: 06 CV 1149 (ARR)

: Chapter 7
: Bankruptcy Case
: No. 04-16320-608

: NOT FOR ELECTRONIC
: OR PRINT
: PUBLICATION

: OPINION AND ORDER

ROSS, United States District Judge:

On January 17, 2006, the United States Bankruptcy Court for the Eastern District of New York (Honorable Carla E. Craig) signed an order removing Jeffrey H. Schwartz, Appellant, as Special Personal Injury Counsel to the Trustee, Robert L. Geltzer, Appellee, and directing Mr. Schwartz and Robert M. Ginsberg to turn over to the Trustee all files related to the Debtor Sueann M. Smith's personal injury action. By opinion and order dated August 24, 2006, this court affirmed Judge Craig's order. Judgment was entered on August 30, 2006. On September 8, 2006, Appellant filed a motion for reconsideration and reargument.

The court denies appellant's motion. Appellant has not satisfied any basis for reconsideration under Fed. R. Civ. P. 60(b) and Fed. R. Bankr. P. 9024. He presents no evidence of "mistake, inadvertence, surprise, or excusable neglect;" newly discovered evidence; or "fraud [], misrepresentation, or other misconduct of an adverse party." Fed. R. Civ. P. 60(b)(1)-(3). Similarly, the court's prior judgment is not void; it has not been satisfied, released, or discharged; no underlying judgment has been reversed or otherwise vacated; and Appellant

has not demonstrated that “it is no longer equitable that the judgment should have prospective application.” Id. at 60(b)(4)-(5). Finally, Appellant has presented no other compelling reason that would justify relief. Id. at 60(b)(6). Even if Appellant had established a basis for reconsideration, the reconsideration of his appeal would be denied on the merits.

Accordingly, Appellant’s request for reconsideration and reargument is DENIED. The Clerk of the Court is directed to enter judgment accordingly.

SO ORDERED.

Allyne R. Ross
United States District Judge

Dated: September 11, 2006
Brooklyn, New York

SERVICE LIST:

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cc: Honorable Carla E. Craig, U.S. Bankruptcy Court E.D.N.Y.